

Mark W. Lapham, Esq. (SBN 146352)
LAW OFFICES OF MARK W. LAPHAM
751 Diablo Rd.
Danville, CA 94526
TEL: (925) 837-9007
FAX: (925) 406-1616

Attorneys for Plaintiff
JOHN F. LUNDY

UNITED STATES DISTRICT COURT

CALIFORNIA NORTHERN DISTRICT (SAN FRANCISCO)

JOHN F. LUNDY

Plaintiff,

v.

SELENE FINANCE, LP; MTC FINANCIAL
d/b/a TRUSTEE CORPS; JPMORGAN
CHASE BANK, N.A.; BANK OF AMERICA,
N.A.; WILMINGTON SAVINGS FUND
SOCIETY, FSB d/b/a CHRISTIANA TRUST,
as trustee for BCAT 2014-12TT and DOES 1-
100 inclusive,

Defendants.

) Case No.: 3:15-cv-05676-JST

)

) **PLAINTIFF'S OPPOSITION TO BANK**
) **OF AMERICA N.A.'S REQUEST FOR**
) **JUDICIAL NOTICE IN SUPPORT OF**
) **MOTION TO DISMISS PLAINTIFFS'**
) **COMPLAINT**

)

)

)

)

)

)

)

)

)

)

)

)

TO THE COURT, DEFENDANTS AND THEIR ATTORNEY OF RECORD:

INTRODUCTION

Plaintiff, by and through their attorney, hereby submit this Opposition to Defendants' Request for Judicial Notice ("RJN") in support of their accompanying Notice of Motion and Motion to Dismiss Plaintiffs' Complaint. Defendants' request is made pursuant to Federal Rule of Evidence 201(b)(2).

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **ARGUMENT**

3

4 **Exhibits A through J** to the RJN are land records recorded in the Marin Recorder's Office

5 related to the Property which is the subject of the instant lawsuit.

6 California law is well-settled that "[t]aking judicial notice of a document is not the same as

7 accepting the truth of its contents or accepting a particular interpretation of its meaning." *Joslin v.*

8 *H.A.S. Ins. Brokerage* (1986) 184 Cal.App.3d 369, 374. While courts take judicial notice of public

9 records, they do not take notice of the truth of matters stated therein. *Love v. Wolf* (1964) 226

10 Cal.App.2d 378, 403. "When judicial notice is taken of a document . . . the truthfulness and proper

11 interpretation of the document are disputable." *StorMedia, Inc. v. Superior Court* (1999) 20

12 Cal.4th 449, 457, fn. 9.

13 **CONCLUSION**

14 For the reasons stated above, Plaintiff does not object to judicial notice of the proposition

15 that the exhibits to the RJN were in fact recorded as public records, but does object to the Court's

16 accepting as true Defendant's interpretation of those documents, or the claim that legal findings

17 may be drawn from the fact of such recording.

18

19

20 Dated: March 3, 2016

LAW OFFICES OF MARK W. LAPHAM

21

22 By: //s/Mark W. Lapham

23 Mark W. Lapham

24 Attorneys for Plaintiff

25 JOHN F. LUNDY

26

27

28